उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

54

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO.596 of 2004

APPELLANT (In Jail)	:	Omi son of Ramchandra Nishad, aged about 27 years, resident of Near Tilda Railway Station, P.S. Tilda Tahsil Tilda District Raipur (CG)
	Versus	
RESPONDENT	:	State of Chhattisgarh Through : P. S. Azad Chowk, Raipur (CG)

Present:

Mr. Suryakant Mishra, counsel for the appellant.

Mr. Sandip Yadav, Dy. GA for the State/respondent.

ORAL JUDGMENT

(13th December 2007)

Dhirendra Mishra, J

This criminal appeal is directed against the judgment of conviction and order of sentence dated 18th September 2003 passed in S.T.No.498/2001 whereby learned VI Additional Sessions Judge, Raipur has convicted the appellant under Section 397, 394 of the IPC and sentenced him to undergo RI for ten years, pay a fine of Rs.1,000/- on each count, and in default of payment of fine to undergo additional RI for three months. Both the sentences have been directed to run concurrently.

शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव —FS/59— 8/2007 —30,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Learned counsel for the appellant submits that he is pressing this appeal only on the point of sentence as the trial Court after holding the appellant guilty under Sections 397 & 394 of the IPC has sentenced him to undergo RI for 10 years whereas other accused persons namely Mahendra Vishwakarma, Mahendra Soni and Naresh Yadav have been acquitted of all the charges and that there were no aggravating circumstances to sentence the appellant for more than the minimum period prescribed under Section 397 of the IPC.

On the other hand, learned counsel for the State/respondent argued that the appellant in association with two other accused persons entered in the house of complainant Kishanchand Atwani at about 2.15 to 2.30 a.m. in the intervening night of 8th – 9th July 2001, the appellant was armed with a sword and they tried to commit robbery by using deadly weapon sword and the appellant caused grievous injuries to the complainant in the process, who was somehow able to overpower the appellant and catch him red handed. Referring to the medico legal examination report of the complainant of Ex.P/14, it is contended that the complaint suffered incised wounds over his 3rd, 4th, 5th finger and also sustained numerous incised wounds over his chest and the same were caused by some hard and sharp object.

शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव —FS/59— 8/2007 —30,000.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

56

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

I have heard learned counsel for the respective parties and have perused the material available on record including impugned judgment of the trial Court.

After going through the statement of complainant Kishanchand Atwani, considering the manner in which the offence was committed, the fact that the appellant was armed with deadly weapon sword and further considering that he inflicted numerous incised wounds over the person of the complainant while attempting to commit loot, I am of the opinion that no interference is called for in the impugned judgment of trial Court. The appeal is without substance, the same is liable to be dismissed and is accordingly, dismissed.

Sd/-
DHIRENDRA MISHRA
Judge